



# Forest Heights Police Department Policy and Procedures Manual

Subject:	Offenses Involving Foreign Diplomats and Consular Officials			
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## A. Purpose

To establish Forest Heights Police Department (FHPD) policy and procedures for foreign diplomats and consular officials stopped for committing an offense.

## B. Diplomatic Immunity Overview

1. FHPD officers must treat foreign diplomatic and consular personnel with respect and with due regard for the privileges and immunities to which they are entitled under international law.
2. Officers must remember that their handling of incidents in this country may have a direct effect on the treatment of US diplomatic or consular personnel abroad.
3. Full Criminal Immunity
  - a. Provided to diplomatic agents, administrative and technical staff and their families.
  - b. The diplomat cannot be handcuffed, arrested or detained, cannot be compelled to give evidence as a witness and is immune from prosecution.
  - c. The person, residence, vehicles and papers of the diplomat cannot be searched.
4. Limited Criminal Immunity
  - a. Service staff members have limited criminal immunity.
  - b. The staff member may be detained or arrested, may be compelled to give evidence as a witness and may be prosecuted for criminal acts.
  - c. The person, residence, vehicles and papers of the staff member may be searched.

## C. Crimes Committed by Diplomats

1. If a diplomat is involved in activity that places the public safety in imminent danger or it is apparent that a grave crime may otherwise be committed, FHPD officers may intervene to the extent necessary to stop such activity and may defend themselves from personal harm.
2. Any crime that is committed by a person with diplomatic immunity will be investigated as if the person was not entitled to diplomatic immunity.
3. Those who encounter a suspect who claims diplomatic immunity should:
  - a. request the suspect's identification and diplomatic credentials if available;
  - b. inform the suspect that he will be detained until his identity can be confirmed;
  - c. contact the U.S. State Department Bureau of Diplomatic Security Command Center; (phone #) at 866-217-2089 to validate the suspect's diplomatic status;
  - d. if the status is confirmed, inform the suspect that he is free to leave;
  - e. notify the FHPD Chief;
  - f. complete the required investigation, request additional resources if necessary and complete all required reports.
4. When the investigation is complete, the FHPD supervisor should fax the approved report to the US Department of State:

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- a. Office of the Chief of Protocol at (202) 647-1198; and
- b. Diplomatic Security Service Protective Liaison Division at (202) 895-3613.

### **D. Violations of the Transportation Article by Diplomats**

1. When a person is stopped for a violation of the Transportation Article and requests diplomatic immunity or presents credentials that show he is entitled to diplomatic immunity, the FHPD officer will:
  - a. issue the appropriate warning or summons or obtain the necessary information to complete an incident report;
  - b. complete a crash report if the person was involved in a crash;
  - c. contact the U.S. State Department Bureau of Diplomatic Security Command Center at 866-217-2089 (phone #) to validate the person's diplomatic status;
  - d. if the status is confirmed, inform the suspect that he is free to leave;
  - e. notify the FHPD Chief if the violation was incarcerable;
  - f. forward a copy of all documents to the Maryland Motor Vehicle Administration Headquarters in Glen Burnie within five days; and
  - g. fax all documents as described in (C)(4), above.
2. A person with validated diplomatic immunity:
  - a. may not be arrested for any violation of the Transportation Article; and
  - b. does not have to sign a handwritten citation and cannot be arrested for refusal to sign the citation or accept a citation or E-TIX summons.
3. The issuance of a traffic violation warning or summons, or the completion of a crash report do not constitute an arrest or detention.
4. Driving Under the Influence (DUI)
  - a. All of the procedures in subsection (D)(1), above, apply.
  - b. Persons with diplomatic immunity stopped for DUI will not be allowed to operate a motor vehicle.
  - c. Sobriety tests should be offered, but may not be required.
  - d. The driver should not be detained except in extreme cases; force must not be used except when necessary to prevent injury to the diplomat or others and then only the absolute minimum should be applied.
  - e. if the diplomat refuses assistance or a claim is made that the officer's requested action would restrict the effective exercise of diplomatic functions:
    - (1) the officer will inform the diplomat that the diplomat is free to go, but the vehicle may not be moved.
    - (2) the embassy or legation concerned will be contacted immediately for advice or assistance in obtaining a driver and removing the vehicle.
5. Towing

A diplomat's vehicle and a vehicle bearing diplomatic registration plates may be towed but is considered secure from violation and cannot be searched.

### **E. State and Federal Government Officials**

1. By authority of the United States Constitution, a member of the US Congress is exempt from civil process service while in transit to or from the US Congress during the session of his respective house except in cases of treason, felony or breach of peace.

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2. A Maryland legislator is:
  - a. exempt from civil process while attending, going to or returning from a session of his respective house; and
  - b. not exempt from arrest in any circumstances.
3. State and federal legislators are not exempt from summons or arrest for violations of the Transportation Article.
4. If member of the US Congress or a Maryland legislator is arrested for any reason, the FHPD officer will notify the FHPD Chief.

### **F. Other Exemptions from Arrest**

1. No person belonging to the organized militia may be arrested on any process except such as may be issued by military authority, while going to, remaining at, or returning from any place at which the person be required to attend for military duty.
2. Ships of war belonging to foreign nations are exempt from the local jurisdiction of the country whose ports they are permitted to visit, but merchant vessels and their crews are not exempt.